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February 10, 2015

Mr. David R. Taggart, Esq.
BRADLEY MURCHISON KELLY & SHEA LLC
401 Edwards Street, Suite 1000
Shreveport, LA 71101-5529

RECEIVED
FEB 18 PM 1:09

Re: *Notice of Intent to File Citizen Suit Against Mid-River Terminal, LLC*

Dear Counsel:

I write in response to Nucor Steel – Arkansas and Nucor-Yamato Steel Company's (collectively, "Nucor") December 10, 2014 Notice of Intent to sue Mid-River Terminal, LLC ("Mid-River") under the Clean Water Act ("Notice of Intent"). While we are under no duty to respond to Nucor's Notice of Intent, we feel compelled to do so because the contents of the Notice of Intent contain fundamentally inaccurate factual assertions and legal positions that are not supported by law. As described in more detail below, there is no factual or legal basis for the action that Nucor threatens to bring against Mid-River. Therefore, we respectfully request that Nucor withdraw its Notice of Intent as it relates to Mid-River or otherwise provide assurance that Nucor does not intend to proceed with a lawsuit against Mid-River. Should Nucor proceed with filing, Mid-River will consider all available options for defending its rights, including application to the court for damages attributable to Nucor's prosecution of a frivolous lawsuit, and penalties or sanctions against Nucor and its legal counsel, as appropriate.

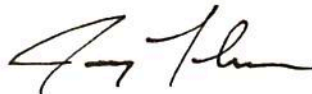
The Notice of Intent raises two primary categories of alleged violations. First, Nucor asserts that it "intends to file a citizen enforcement suit under Section 505 of the Clean Water Act, for unpermitted discharge of pollutants, including dredged or fill materials, into jurisdictional water." Nucor alleges that Mid-River's "unpermitted and ongoing construction" of an industrial steel mill in Mississippi County, Arkansas "is resulting in the continued discharge of fill material and/or dredged material and other pollutants, actions that are in clear violation of 33 U.S.C. §§ 1311(a) and 1344(f)(2)." Those statements are false. To the extent that the construction of the steel mill has resulted in the discharge of fill material into jurisdictional waters, that discharge has occurred consistent with the terms of a Section 404 permit issued by the United States Army Corps of Engineers (the "Corps") pursuant to the Clean Water Act. The applicable permit has been in place for months. Rather than send the "cease and desist" letter to various state and federal agencies (dated December 3, 2014) and the Notice of Intent, Nucor could have sent a freedom of information request to the Corps, called the Corps or otherwise visited the Corps' website to discover that the permit had been issued. It also

should be noted that certain photos attached to the Notice of Intent and December 3 letter are not part of the mill site nor are the asserted positions consistent with prior determinations by the Corps. Finally, in response to the December 3 "cease and desist" letter, the Corps inspected the steel mill site and did not find any violations. See Attachment #1. In light of the foregoing, it should be apparent to Nucor that Mid-River has not engaged in any unpermitted construction at the site of the steel mill project.

Second, Nucor states that it intends to file suit for "misleading characterizations" in the applications for Section 404 permits that resulted in the Corps of Engineers and the State of Arkansas filing "two separate Joint Public Notices . . . for construction of the steel mill and the supporting dock terminal." Nucor contends that, under the National Environmental Policy Act, 42 U.S.C. §§ 4321-4370h ("NEPA"), "these two projects should have been considered one related undertaking, and so filed as one application, and under one Joint Public Notice." Nucor's rhetoric belies the lack of substance in Nucor's letter. Conspicuously absent from Nucor's Notice of Intent, is even a single reference to any "misleading characterization." Nucor's omission reflects the reality that Mid-River's permitting documents are complete, accurate, and consistent with all regulatory requirements. The gravamen of Nucor's letter appears to be Nucor's position that the federal agencies misapplied NEPA in granting the permit issued to Mid-River. But that is not a grievance that can be enforced through a citizen suit under the Clean Water Act. Any lawsuit against Mid-River premised on a contention that Mid-River failed to satisfy obligations under NEPA would therefore be meritless.

In sum, this letter constitutes notice to Nucor that the grounds it has identified as the basis for its intent to sue Mid-River are factually inaccurate and insufficient to sustain a legal action. Unfortunately, in light of the four prior lawsuits that Nucor has filed in an attempt to block the project, Mid-River believes that Nucor's litigation strategy is not to win, but rather harass and require Mid-River to incur legal fees. To that end, should Nucor persist in bringing this baseless action, Mid-River will pursue all available avenues to protect its rights and recover from Nucor any and all legal and equitable relief to which Mid-River will be entitled.

Sincerely,



Jeremy M. Thomas

Attachment

cc: Martin Booher
Josh Bright
Steven L. Stockton, SES
Mark Hathcote
Ron Curry
Hon. Gina McCarthy
St. Francis Levee District
Mississippi County Judge Randy Carney
Mayor of Osceola
Cindy Dohner

From: (b)(6)
To: (b)(6)
Subject: [EXTERNAL] FW: site inspection of permitted actions (UNCLASSIFIED)
Date: Friday, January 09, 2015 7:16:16 AM

(b)(6), This is what (b)(6) sent me. I don't think he had written a report at the time. (b)(6)

-----Original Message-----

From: (b)(6)
Sent: Tuesday, December 16, 2014 11:34 AM
To: (b)(6)
Subject: site inspection of permitted actions (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

(b)(6)

This morning (b)(6) and I made a site inspection of two recently permitted projects; MVM-2014-172 (Big River Steel) and MVM-2014-219 (Mid-River Terminal). We compared work that has been completed at the sites to the permits issued for each project. We did not find a violation of permit conditions on either project. Our access to the Mid River Terminal site was minimal due to recent weather. However, comparing photograph 3 submitted by Nucor Steel to the issued permit, no violation has taken place.

Photographs 1 and 2 submitted by Nucor Steel are not part of either project. This work is being done by Consolidated Grain and Barge Company (MVM-2014-135). It is my assumption that these photographs were taken at the wrong location since this project has not been a recipient of Nucor comments. The work we saw for this project was within the permit conditions as well.

Thanks,

(b)(6)
Regulatory Branch
U.S. Army Corps of Engineers, Memphis District
167 North Main Street, Room B-202
Memphis, Tennessee 38103
(b)(6)

Classification: UNCLASSIFIED
Caveats: NONE